

CITY OF OAKLAND



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December 15, 1997

Ms. Cynthia L. Johnson
Director, Cash Management Policy & Planning Division
Financial Management Service
U.S. Department of the Treasury
Room 420
401- 14th Street, S.W.
Washington, DC 20227

Dear Ms. Johnson:

I am writing regarding the proposed regulations issued by the Department of the Treasury implementing Electronic Funds Transfer '99 ("EFT '99"; 31 CFR 308). The City of Oakland shares the Department of the Treasury's goal of bringing into the mainstream of the financial system those people currently receiving government payments who are "unbanked". The City is concerned, however, about the impact of the proposed regulations on low and moderate income recipients of federal benefits and the neighborhoods in which they live.

Like many cities across the country, Oakland has experienced a loss of traditional banking services, and many of our residents do not currently have access to adequate banking services at a reasonable cost. In the absence of traditional banking options, many lower and moderate income residents pay higher fees at non-traditional or "fringe" banking institutions such as check cashing establishments. We believe that the implementation of EFT '99 will have a significant impact on whether government payment recipients utilize such fringe banking services or are brought into traditional financial institutions. This issue is important for the economic vitality of the City. Good banking relationships and banking institutions are important to the quality of life of our residents and our communities. We believe that EFT '99, if implemented with our concerns adequately addressed, could assist in bringing currently unbanked or underbanked residents into mainstream banking. By the same token, however, we are concerned that implementation of EFT '99 has the capacity to exacerbate trends in the provision of financial services for lower income residents, leaving them with a requirement to access funds electronically, but an inability to access those funds at an affordable cost or by utilizing traditional bank accounts. Our comments are primarily addressed to the issue of bringing lower income residents into mainstream banking by providing them with the opportunity to access such adequate and affordable banking services. Our concerns and suggestions regarding the proposed regulations are outlined below.

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1. Electronic Transfer Account (ETA) Features

A. ETA Accounts Should Offer Standard Services & Consumer Protections at Low Cost

We urge the Department to ensure that the "ETA accounts", the accounts which will be provided to recipients without bank accounts at the time of implementation, are affordable to low income recipients and that they offer standard bank account services and consumer protections. It will be critical for low income recipients of government benefits that the ETA accounts be **free of charge**. While the U.S. Government expects to save approximately \$100 million annually through EFT '99, such savings should not be at the expense of recipients, who would therefore experience an effective reduction in government payments as a result of the change to electronic transfers. As a local government, we know that the cost is passed on in the form of lower standards of living for our low income residents and an increased burden on local service providers as those with marginal financial means continue to pay more for basic financial transactions.

The ETA accounts must also respond to recipients' needs for access to their funds, checking options, access to money orders, and ready information on account activity. For example, the ETA accounts must be easily accessible through a wide network of automatic teller machines (ATMs) and point-of-sale (POS) terminals so that recipients can withdraw funds and/or check account balances *at no cost*. Recipients must have access to a sufficiently high number of such free transactions to conduct basic household business such as grocery shopping, cash withdrawals, etc. Again, unless ETA accounts are both affordable and offer services needed by most recipients (such as checking, money orders, ATM access), recipients could be forced to use existing high cost service providers and the payments received by recipients will be effectively reduced.

The ETA accounts should provide adequate consumer protections to recipients, such as those now provided to account holders at insured depository institutions. Although the proposed regulations indicate that ETA accounts will be subject to the same consumer protections as afforded to other account holders at the same institution, we wish to stress the importance of ensuring that all accounts contain sufficient consumer protections and that a high standard of consumer protection be provided to all recipients, regardless of the institution through which they receive funds. Further, while statutory protection against attachment to funds in these accounts already exists, we believe that such protection should be reinforced through specific language in the regulations. Protection against such attachment is necessary for many low income recipients who could be left without funds for rent or food should funds in these accounts be attached.

B. Locational Access To Banking Services

We also urge the Department to ensure that adequate locational access to banking services is made available. Many neighborhoods in Oakland do not have adequate banking services such as

branches, ATMs, or bank kiosks. Some neighborhoods have none of these services. Currently unbanked recipients in such areas need better access to banking services. Implementation of EFT '99 should be conducted to achieve the greatest access to banking services possible. Mechanisms toward that end include a requirement that financial institutions maintaining ETAs have adequate banking services in all geographic areas served. For communities such as Oakland, banks with ETAs would therefore need to increase service provision. The potential profits to banks from maintaining ETAs, particularly if the banks are default institutions into which payments to individuals without designated accounts are deposited, could be very large. Banks benefitting by securing a contract to provide ETAs should be under the obligation to provide adequate access to banking services in all areas served.

2. All Recipients Should Have Access to ETA Accounts

All recipients should have access to the ETA accounts arranged for by the Department, not just those recipients who are unbanked at the time of implementation, as we understand is the case under the proposed regulations. Lower income residents who currently have, or who will make arrangements to receive electronic funds transfers prior to full implementation of EFT '99 should not be penalized for doing so by then being ineligible for an ETA account. We therefore urge you to ensure that access to the ETA accounts is available to all low and moderate income recipients, regardless of whether they have another means of receiving electronic funds transfers at the time of program implementation.

3. Voluntary Accounts

We further urge the Treasury Department to regulate accounts that are established voluntarily to receive electronic funds transfers (EFTs) to ensure that these are provided at a reasonable cost and with adequate consumer protections. We understand that high cost services with fringe banking businesses are being advertised to potential customers, including federal government benefits recipients, to allow for EFT. We are concerned that systems are now being set up for the receipt of federal payments in which the payments are electronically deposited in banks, transferred to check cashing businesses (for example), and then a check is cut to the recipient. The recipient may not achieve a savings from the use of EFTs in this system. On the contrary, the cost of the account, the check, and, further, the cost of the necessary check cashing, money orders, and other services are all charged to the recipient. With such arrangements, EFT '99 will be far from efficient and cost effective for the recipient and we therefore request that the Department use its authority to regulate recipient accounts now being set up to receive government payments electronically.

4. Point of Sale Terminals for Small Merchants

The City is concerned that small neighborhood merchants will be negatively impacted by the transition to electronic banking by many lower and moderate income government payment recipients. Such small businesses may rely heavily on customers receiving government benefits, and many provide free check cashing and other services to these customers. In the implementation of EFT '99, these merchants may see their costs of doing business rise due to the necessity for POS terminals. Such small merchants may be at a disadvantage in retaining customers if they are not set up to handle electronic transactions, and if they must either pay more for, or charge more for, the use of POS terminals than larger retailers. We therefore request that small merchants who have been serving neighborhood needs by cashing recipient checks for free be supplied with POS terminals, software upgrades to accept credit cards, and any necessary training around their usage that may be necessary free of charge.

5. Non-Traditional (or "Fringe") Financial Institutions

The Department's decision to use only insured depository institutions in the provision of ETAs is an important step toward ensuring that recipients have access to adequate banking services at a reasonable cost through traditional institutions. However, we strongly urge the Department to prohibit such insured institutions from subcontracting access to ETA accounts through non-bank, unregulated entities such as check cashing establishments. These establishments often charge customers high fees for basic services, thus reducing the already often small amount of funds low income government benefits recipients have to expend on basic necessities. A 1994 study conducted by the Consumer's Union of the U.S., Inc. West Coast Regional Office found that a family with an annual take-home income of \$15,000 would spend \$300 per year just to convert paychecks into cash (assuming an average check cashing fee of two percent of the check value). At the same time, the study estimated that if the same family had used a traditional bank account, they would have spent \$100 per year; one-third the cost of using a check cashing outlet.

6. Community-Based Financial Institutions

At the same time that we discourage the use of fringe banking institutions such as for-profit check cashing businesses in the implementation of EFT '99, the City encourages the use of community financial institutions such as credit unions or community-based banks to the extent possible. The withdrawal of traditional banking services in many of Oakland's neighborhoods has highlighted the need to create new, and to strengthen existing, community-based financial institutions created for community benefit. Oakland has community credit unions as well as a community development bank all designed to provide banking services to residents. These institutions often attempt to offer services at reasonable costs in geographic areas already underserved by traditional institutions. We urge the Department to find a way to encourage the use of accounts with such community financial institutions in the implementation of EFT '99. Moreover, we encourage the

Department to use the funds from the savings associated with EFT '99 to support such community-based financial institutions with the capacity for EFT. Such support is critical to developing and strengthening the long-term access to low-cost banking services for recipients in communities under-served by traditional banks.

7. Waiver Provisions Should be Broadened

We are pleased that the proposed regulations allow recipients to self-certify their eligibility for waivers. We are, however, concerned about the ability of the many not now eligible for waivers to manage in the new electronic funds transfer system. We therefore suggest that the waiver provisions be broadened to allow waivers for those with mental disabilities, literacy issues, or language barriers.

8. Language Barriers

Oakland is not unique in the use of many different languages in our city. Implementation of EFT '99 must be sensitive to non-English speaking populations. In addition to Spanish, Asian languages are spoken by many U.S. residents, particularly in California. Not only must the public education campaign materials be available and understandable to these populations, but, even more importantly, the financial services themselves must be as well.

9. Public Education Campaign

We are also pleased that the Treasury Department will conduct a public education campaign regarding EFT '99. We encourage you to conduct the campaign in many of the languages spoken by recipients; to ensure that the campaign includes clear information regarding all recipient rights and options under the program, such as the ability to request a temporary or permanent waiver; and that you include the education of small local merchants, who may be significantly affected by EFT '99. It will also be important to ensure that an aggressive public education campaign will take place at the time the ETA accounts are available in order to educate recipients about the availability of such accounts.

We also encourage you to aggressively pursue the education of recipients in basic banking and electronic banking. Toward achieving these ends, we further suggest that the Department use some of the funds saved through EFT '99 to finance local efforts by community groups and cities to conduct such education efforts. In Oakland and around California, we know of a number of such efforts which combine education on banking, and particularly electronic banking, with increased access to ATMs, POS terminals, on-line banking, and banking by telephone in underserved neighborhoods. Because EFT '99 will affect the same lower income populations that these efforts are designed to serve, these efforts can be an important adjunct to the Department's EFT '99 education campaign. Funding for these programs should be made available as soon as

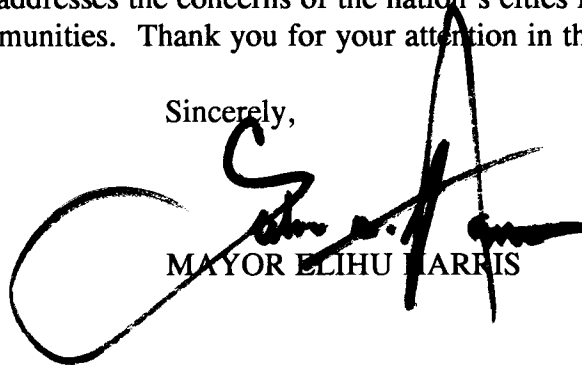
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possible in order to assist recipients in managing electronic banking early in EFT '99's implementation.

We are also very concerned that recipients without bank accounts are now being subjected to aggressive advertising campaigns by high cost service providers in which they are told that they must secure electronic funds transfer capabilities now or face the risk of not receiving government payments. These types of campaigns must be counterbalanced by a Department of the Treasury-funded educational effort directed toward the un- and under-banked and to be put in place *immediately* in order to prevent recipients from needlessly overpaying for electronic transfer services far in advance of when these services are even needed.

The City of Oakland urges you to take action on these issues in the implementation of EFT '99 to ensure that the program adequately addresses the concerns of the nation's cities like Oakland and our low and moderate income communities. Thank you for your attention in these matters.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Elihu Harris", is written over the typed name. The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping stroke at the end.

MAYOR ELIHU HARRIS